

BEFORE THE
NATURAL RESOURCES COMMISSION
OF THE
STATE OF INDIANA

IN THE MATTER OF: )
)
PETITION FOR RATE INCREASE ) ADMINISTRATIVE CAUSE
BY FOURWINDS RESORT & ) NUMBER: 07-094P
MARINA )

REPORT OF HEARING OFFICER, INCLUDING FINDINGS
AND PROPOSAL TO THE NATURAL RESOURCES COMMISSION
AS TO ITS RECOMMENDATIONS TO THE U.S. ARMY CORPS ENGINEERS

1. PETITION FOR RATE INCREASE BY FOURWINDS RESORT & MARINA

Jeffrey G. Hammond, General Manager of Fourwinds Resort & Marina (Fourwinds), filed a petition dated September 18, 2006 with the Division of State Parks and Reservoirs of the Department of Natural Resources (Department) seeking a rate increase for facilities operated on Lake Monroe. The petition provides a lengthy review of investments in the property that have been undertaken since August 2001, when Traina Enterprises, Inc. purchased the property. The highlighted projects include a high-volume pump-out system, a floating ship store providing necessities and a fuel depot, the dock replacements of the A and H Docks, service department expansion, shoreline beautification and protection efforts, the construction of a water pond, a boardwalk and gazebo in a previously "unsightly portion of the property, the replacement of all stairs with 80 foot bridges, paths have been widened using brick and lighted, installation of electronic card access system, live trapping efforts to remove nuisance animals from the marina, expanded boater communication, parking improvements, expansion of the restaurant and lounge, renovations to the pool, creation of a new beach and landscape enhancements. Mr. Hammond expresses within the petition that over 7 million dollars in capital investment has been dedicated to the facility since early 2002. With respect to Fourwinds' requested rate increase Mr. Hammond states, in pertinent part:

At this time, I am placing our request for approval to implement up to a 10% rate increase to be effective at the start of our next contract season (April 1, 2007). While we may certainly elect not to have a 10% "across the board" rate increase, we would like the flexibility to increase up to this level. Of course, actual increase amounts with the approved parameters will be determined by the market.

It should be noted that Mr. Hammond submitted Fourwinds' petition in September of 2006 seeking a rate increase for the 2007 boating season. Marina rate increase are controlled by Information Bulletin #20 (discussed in detail below), which dictates that any increase for the 2007 season would have had to be considered by the Natural Resources Commission (Commission) at its September 2006 meeting. After being advised of the situation, Mr. Hammond requested that his September 2006 petition be considered for implementation in 2008.

## 2. SCOPE OF REVIEW

Fourwinds has petitioned for a rate increase for the 2008 season. The requested rate structure would authorize Fourwinds, at its election based upon market forces, to increase fees by up to 10% “across the board.” The petition by Fourwinds is governed by a nonrule policy document approved by the Natural Resources Commission as Information Bulletin #20 (First Amendment) (<http://www.ai.org/nrc/policy/marinara.html>), and published in the *Indiana Register* on August 1, 2003 (26 IR 3761). The Commission reflected that the purpose of the document was to implement an informal process for the administrative review of ratemaking recommendations for resorts and marinas under lease with the Department.

According to the nonrule policy document, a lessee desiring a rate increase for a guestroom, slip, or houseboat shall submit its request to the Department, in accordance with the existing lease agreement, for the following year by April 1 of the preceding year. Upon receiving a request, the Department informs the Division of Hearings of the Commission (*Hearings Division*). The Hearings Division assigns a cause number and, in consultation with the Department, selects the date and time for a public hearing to be held in Indianapolis. The Department advises the lessee of the date, time, and location in Indianapolis of the rate hearing, at which time the lessee and affected persons may provide comments to a Commission hearing officer.

Petitions, requests, documentation, exhibits, and other pertinent materials concerning the proposed rate increase request are to be available for the public to review at the lessee’s business office, during normal business hours. The lessee shall provide notice of the proposed rate increase petition to each slip or buoy renter. A copy is also to be made available for the public to review at the Division of State Parks and Reservoirs, 402 West Washington Street, Room W298, Indianapolis, Indiana, 46204. Affected persons may send written comments concerning the proposed rate increase to the Hearings Division, 402 West Washington Street, Room W272, Indianapolis, Indiana, 46204. In accordance with the existing lease agreements, the Department is to analyze comparable facilities to compare rates with those sought by the lessee. Information used in the analysis is to be available for inspection at the Division of State Parks and Reservoirs office in Indianapolis.

Affected persons may attend the rate hearing and provide oral or written statements. The hearing officer shall conduct the hearing in an orderly and informal manner designed to develop a fair and complete agency record. The Administrative Orders and Procedures Act (IC 4-21.5) does not apply, but the hearing officer is delegated full authority by the Commission to implement IC 14-11-1-3, and to make any orders reasonable in implementing the purpose of the nonrule policy document. The lessee’s request and any supporting documentation, written comments provided by affected persons, the analysis by the Department, and oral and written statements received during the rate hearing form the record upon which the hearing officer shall review the request for rate increase.

Following the completion of the review, the hearing officer is to make a written report to the Commission. The report is to include written findings with respect to the requested rate increase and a proposal to the Commission for recommendations to the U. S. Army Corps of Engineers. The hearing officer shall also forward a copy of the report to the lessee, the Department, and any other person who requests a copy.

The hearing officer is to present the findings and recommendations to the Commission during a meeting to be held in August or September. During that meeting, the Commission will either recommend approval of the rate increase, disapproval of the rate increase, or approval of a rate increase in an amount less than requested by the lessee. Recommendation for favorable consideration of a rate increase will not be withheld unless, in the opinion of the Commission, fees submitted exceed fair market rates charged by operators of other similar privately-owned resort developments comparable to the project in the area.

### **3. PUBLIC HEARING AND WRITTEN COMMENTS**

A public hearing was conducted as scheduled on July 20, 2007. Comments were received during the hearing as follows:

#### **A. Petitioner at Public Hearing**

**Jeffrey G. Hammond, General Manager, Fourwinds Resort & Marina**, explained that Fourwinds is seeking Commission approval for a marina rate plan that would authorize Fourwinds, at its discretion, to increase marina rate fees up to a 10% across the board. Mr. Hammond indicated that Fourwinds has had one rate increase since 1996 or 1997. That rate increase, which occurred in 2001, raised rates by 4% and authorized the individual metering of electricity, which reduced the overall property electric bill by almost 15%. During the time since the last increase the consumer price index has increased, decreasing the purchasing power of the dollar and the ability to cover debt and provide continued investment. Fourwinds has, since its acquisition of the resort property in 2001, invested 7.5 million dollars into the facility, making physical improvements and infrastructure changes included power and water upgrades. Improved parking, while still not optimum, provides more parking spaces than were previously available. This past summer, construction of a new boat ramp was completed by the Department. The new boat ramp did not aid Fourwinds' boaters but it did provide an additional parking lot through a deal made with the Department. Mr. Hammond explained that a full list of improvements was provided in the request for rate increase and was provided to each slip holder. He understood that people may have their own opinions about those improvements but reiterated that Fourwinds has had one relatively modest increase since 1997 and every year costs go up.

Following comments from slip holders, Mr. Hammond offered these additional observations. He acknowledged that A, B and C docks are not completely renovated but indicated that work has begun on those docks with one half of A dock having been replaced with the remaining one half of A dock and all of B & C docks remaining to be upgraded. Mr. Hammond expressed again that Fourwinds is seeking the ability to increase fees up to 10% and indicated that, out of fairness, Fourwinds' intentions would be to impose minimal increases on docks where improvements have not been made while reserving the greater increases for slips on new or newly renovated docks. Mr. Hammond expressed the belief that all of the docks would be subject to some degree of increase stating that no increase at all for portions of the marina will prevent the ability to maintain the capital investment with the existing debt structure. Reality is that everything goes up but it should not increase as much for B dock, which hasn't been improved, as it should for a dock that is new.

Mr. Hammond reiterated his belief that parking is a "far cry" from what would make people happy but it has always been a challenge due to the layout of the facility. Individual comments reflect that the super dock is irrelevant to them or the new boat ramp is irrelevant to them and Mr. Hammond expressed his view that these thoughts are misplaced because all of these projects are

simply small parts of a bigger puzzle. The new ramp will allow the old ramp located at the marina to be closed except for launching larger boats, which will decrease transient boater activity within the marina, something many of those commenting expressed displeasure with. Mr. Hammond observed that Fourwinds wants to gate that ramp off but have been disallowed to until the Department determines that there is sufficient parking for transient boat trailers. The gravel lots belong to the Department and will be paved providing for the parking that will allow for the marina ramp closure. Mr. Hammond explained that any prohibition on Fourwinds' ability to seek a rate increase was self-imposed.

Mr. Hammond explained that a security service has been retained by Fourwinds and by contract is mandated to dedicate 95% of its time to the marina. Mr. Hammond conveyed that he is not following them around to see what they are doing but instead he relies on the logs being provided by the security service. If they are not fulfilling the terms of the contract, Mr. Hammond expressed his desire that the boaters make him aware of the situation so the officers can be re-tasked or the security company can be replaced by a service that will provide the desired service. With respect to the security gates there are several people who don't like them. Mr. Hammond stated that another boater told him that the gate that has been out of order for several weeks was the subject of vandalism at the hands of a boater within the marina. Mr. Hammond expressed his opinion that vandalism is not a large problem but it does occur... the lights on the paths get kicked off too. With respect to the thieves, Mr. Hammond agreed that they are generally not coming from land and will not be deterred by the gates; however, he expressed his belief that the gates control what can be controlled. The Department will not allow them to restrict transient boaters from entering or going through the marina, although the marina can control transient boaters with respect to tying up at empty slips and deboarding on the dock.

## **B. Affected Persons at Public Hearing**

**Bob Hunsicker**, a patron of Fourwinds for 25 years, explained that the slip holders have no recourse at the marina. The forum provided by the Department and the Commission is the only opportunity they have to make their views known. Mr. Hunsicker submitted two sets of photos, twelve total, for consideration by the hearing officer. The first set, consisting of four photos, Mr. Hunsicker correctly observed were complimentary to Fourwinds, depicting significant improvements on certain docks. However, the second set, consisting of eight photos, depicts rusting slip roofs with holes, broken signage, and other areas of disrepair within the slips. Mr. Hunsicker indicated that the latter set of eight photos were taken of A, B & C Docks, where he is located, and which he characterizes as the "stepchildren" of the marina, where there have been no improvements. Hunsicker elaborated his belief that revenue from slip holders on Docks A, B & C has been utilized to do improvements on some docks and expand other docks in order for Fourwinds to net ever increasing revenue. However, each time he asks about improvements to Docks A, B & C he is told "next year" and when next year arrives nothing happens. The big thing he's opposed to is the increase in the number of slips and the size of slips that further increases revenue. He objects to any increase for Docks A, B & C until Fourwinds does the same improvements they have done with other docks.

**Bart Wooldridge** expressed his total agreement with Hunsicker in objecting to this rate increase. In Mr. Wooldridge's opinion the super dock was built as a capital expense from profits made from the boaters. The rent there is approximately \$10,000 per slip annually, which pays for itself in one season. At the same time, fuel prices are \$4.00 gallon, cigarettes are \$6.00 per pack, beer is \$6.00 per case higher than regular stores and so is ice. Extensions for patios cost \$400.00 forever, not just a one time installation charge. Mr. Wooldridge expressed his concern that

## AGENDA ITEM #16

Fourwinds, in seeking this rate increase has discussed expenses but has failed to account for all of its revenue sources.

**Debra Joyce** offered her and her husband's agreement with the previous commenters. She reiterated previous comments to the effect that gas prices are higher than prices at the state dock. Many of the improvements mentioned do not aid the majority of slip holders. For example, the ship store was moved to where the boat rentals are located, which is too far away to be convenient. Mrs. Joyce mirrored earlier comments regarding the stores wares being too expensive. Another example Ms. Joyce identified is the beautiful landscaping for the hotel that is good for the weddings and other events they have at the hotel, which generate revenue for Fourwinds, but it does nothing for the slip holders. Mrs. Joyce observed that opposite the beautiful landscaping at the hotel, the marina has leaves and debris. Mrs. Joyce submitted three photos, one depicting debris along the shoreline between the hotel and H/I dock and two depicting unkempt grounds between the hotel and H/I dock walkway. Mrs. Joyce further explained that the security gate on H and I docks has not worked at all for three weeks and has not worked right all season. Therefore, the marina is subjected to unwanted visitors, transients, etc. There are no security lights which is a great concern given the number of break-ins occurring at the marina. Mrs. Joyce indicated that security does walk around on the weekends, but on the weekends the marina is full of slip holders who watch out for each other's property and are not the ones breaking into each others boats and stealing things. What she believes is necessary if for the security to be present during the week when the boaters are not there. Parking is a concern because the boaters' parking lot is full of jet skis and stored boat trailers as well as Fourwinds employees who park there. There's no garbage pick up, there's no valet, no ice delivery that you would find at many of the other marinas such as Dale Hollow. For the money spent Mrs. Joyce explained that we get only our boat slip and nothing more.

**Cheryl Moore**, from G dock, stated that she submitted written comments that go through Mr. Hammond's request point by point but wanted to elaborate on some of the points for benefit of everyone in attendance. She explained that when Traina Enterprises purchased the marina, the planned improvements were outlined and there was no mention of rate increases being necessary for accomplishing those improvements. Ms. Moore submitted a November 17, 2001 Herald Times Newspaper article in support of her position. The revenue generated by the marina is significant even in comparison to other marinas. The revenues identified by Fourwinds do not include slips of the size of hers. And the annual charge for a patio extension, for example is also not captured in the revenue figures provided by Fourwinds. Ms. Moore stated that she understand that costs of doing business are increasing but expressed her belief that sometimes the expense structure must be considered and decisions made based upon data. She questions what is happening with the hotel because she suspects that Fourwinds losses are associated with the hotel, not with the marina. Fourwinds has replaced some docks damaged by the storm when they only needed repaired. Ms. Moore identified several complaints including her observation that dock repairs are not consistent but instead are done only when repairs are requested. The super dock is an additional revenue source and also presents a hazard. According to Ms. Moore, transient boat traffic continues to travel through there and no one considered the effect of the super dock on water reaction in that channel. The super dock acts as a break wall causing a washing machine effect. She explained further that if you're going through there with a 40 foot boat you have to be right in the middle of the channel or risk washing the boat up against the super dock. In Ms. Moore's opinion the pump out is also located in that area resulting in additional traffic and a second pump out needs to be placed at the ship store to eliminate some of the congestion. She reflected that the marina office closes at 5:00 p.m. when boaters don't get down there until after work and she believes the office needs to stay open until 6:00 or 7:00. The gate key card system allows slip holders to use the hotel pool but it also allows hotel guests to access secured docks so

it really isn't a truly secure system. According to Ms. Moore, Fourwinds allows daily rentals of slips on G & H docks where the large more expensive boats are located and she believes that for what those slip fees are that some restriction should be imposed. Understand that transient traffic can't be restricted from traveling through the marina, but they should not be allowed to rent these docks. Comparisons with other marinas reveal that Fourwinds slip holders do not receive for their money what is received by slip holders at other marinas. Fourwinds is a monopoly; need to allow another marina on the lake to foster competition. Ms. Moore also submitted fifteen photos of docks damaged from snow in 2001.

**Bob Hines**, on G dock, agreed with Cheryl Moore's statements, adding that parking is his most nagging problem. Even though marina is the largest form of income for Fourwinds she believes that the slip holders are viewed as a nuisance. Mr. Hines expressed displeasure that the marina office doesn't return phone calls and on Fridays between 2:00 or 3:00 in the afternoon there is no spot to park although there is also no one at the marina. Hotel employees and many others use the parking and 10-15 parking spaces are taken up with boat trailers in the predominant parking lot. If the auxiliary parking Mr. Hammond mentioned actually exists, then the trailers should be moved to less predominant locations for storage. He believes that for the money they spend they should receive a much better situation.

**William Knott** expressed his opinion that the trash at the marina is unreal and there are no trash containers. He reflects that the trash is not created by the slip holders but is instead created by hotel guests who visit the marina. Mr. Knott explained that slip holders have to pay an additional fee for restrooms. The men's restroom has one toilet, one urinal, three lavatories and two showers that should have been replaced twenty years ago. His wife won't use the ladies restroom offering that they are always out of toilet paper and the floors are filthy. The pump-out station has two pump outs for boats but in the last two weeks we've only had access to one. The rails, the pilasters are very well padded but they are falling apart, which means that someone is too lazy to go down there and screw the bolts back in to prevent them from falling in the water. The parking lot has more spaces used for boat and trailer storage than are provided for marina parking. He explained that dock and slip identification is lacking and stated that EMS was called in for an emergency situation and had to ask where a location was. Mr. Knott observed that these are easily corrected situations that are not being addressed by Fourwinds. Recently, alcoholics from the hotel bar were on the dock at 1:00 a.m. and remained there until the County Sheriff arrived at 5:30 a.m. In that 4 1/2 hour period of time they had tried to locate security on site without success. The latest they saw a security officer on site was approximately 8:00 p.m. Hammond has told them that security is 70% dedicated to the marina but the slip holders never see them. The super dock is an accident waiting to happen, "it's too narrow, too much current, too much wind, and the waves are not getting broke up by the bank." Last fall, marina staff were told that they needed to put anti-slip strips on dockway going down and it is now half way through the season and the repair has never been made. On a wet day the ramp is extremely slippery and is at a 45 degree angle going down. He understands the ramp was placed there for handicap accessibility but a wheelchair could never get up or down with the steepness of the ramp. Otherwise, he agrees with the concerns of the other slip holders.

**Jan Warren**, who also indicated have commented by email stated that she had learned from the marina office that security was hired to be at the marina on Friday, Saturday and Sunday, when the boaters are there. She observed that it's when the boaters aren't there that security is needed to prevent the break ins. It's customary to see the guards at about 8:00 p.m. - 8:30 p.m. on the weekends and see them no more all night so the 70% dedicated to the marina is not being fulfilled. They are dealing with "pirated slips" (boaters using vacant slips without paying) and have reported it to the guards but were told that all security could do was report it. In the past,

security had the authority to tow a boat in that situation and charge the owner for the slip before returning the boat. Allowing the pirating of slips is a loss of revenue to Fourwinds. The upper parking lot is full of construction traffic, stored boat trailers with Fourwinds stickers on them, which indicates that Fourwinds is charging a fee for the storage of those trailers. The bottom lot, the back ½ has been blocked off with a fence by Fourwinds for paid storage and the front ½ has boats, trailers, etc. down there. She understood that the State had prohibited Fourwinds from seeking a rate increase until significant improvements had been made. The Corps had mandated that the foam under the docks be removed so the docks Fourwinds has replaced were required by the Corps to be replaced. Fourwinds has still not replaced A, B & C Docks, which also use the foam. The ships store used to be a true grocery store with meat and customary groceries for which outrageous prices were not charged. The boaters don't mind paying a little more for the convenience but the store now gouges them for items purchased and no longer offers true grocery items. All they have stocked now is cokes, chips, beer, snacks, etc. Fourwinds raised the fact that they have added a service department and she questions how that is an improvement offered by Fourwinds since the services provided must be paid for. Ms. Warren also noted that the lift is inadequate for the larger boats. She has personally slipped on the walkway since it doesn't have slip strips. Ms. Warren observed that "Fourwinds tends to want to build new things, spend a million dollars on landscaping, and do things like that but not maintain the things they've already got. There's a lot of things in disrepair around there."

**Ginalee & Bruce Robbins** have 2 boats on E dock. They have been at Fourwinds for 2 years with 2 brand new boats. In those two years they have been the victims of a break in and were told by police at that time that there were 21 boats broken into between 5:30 p.m. one evening and 6:30 a.m. the next morning, with theirs being one of them. "There is no security." Mr. Robbins noted that he chain locked his chairs, etc. and lent another boater, Mr. Knott, a lock to do the same. Mr. Robbins then left his only set of keys to the locks with Mr. Knott. When they next returned to the marina they realized that Mr. Knott had their only keys and in order to free their furniture, etc. Mr. Robbins spent an hour and a half cutting through locks with bolt cutters and no one even inquired. He sees security but usually they are up in the bar area at the hotel. The slip holders have a significant investment in these boats and there is no security. For this reason alone he objects to any increase. He's also concerned about budget items being shifted between the marina and the hotel to hide the hotel's lack of profitability. The hotel is the revenue problem and they need to address that problem separately from gouging the boaters to cover the hotel's losses. "My understanding is that the hotel is losing money; if the hotel is losing money and we're renovating the hotel, where is the money coming from? My guess is we're (the marina) subsidizing it and we should not be subsidizing it because the boater renters who have boats down there are not the ones spending the night in the hotel." An additional revenue source not included in Fourwinds' calculations pertains to slips left vacant by boaters who remove their boats from the slips in the winter. These slips, although paid for once by the annual slip holder, are re-rented by Fourwinds for winter storage of other boats.

**Jack Baynes**, from G Dock, has a very large boat and maneuverability is very poor. If there is any wind he won't even take his boat between J Dock and the Super dock. J Dock slides toward the Super dock when it's windy. It's an accident waiting to happen. The plastic docks on B and G there are holes in it and pieces are popping up. We've brought it up but nothing ever happens. The walkways are so poorly lit that he won't let his grandchildren go out at night. His wife has slipped and fell several times and there is still no slip strips on the ramp. Fourwinds is renting equipment, jet skis, pontoons, etc., to people without providing any training. Transients fly through the marina causing waves and causing boats to hit the docks. Mr. Baynes expressed his belief that the hotel is losing money and the marina is supporting the whole thing. The parking lots are full of trailers and boats for repair, observing that there is no parking. In his opinion the

new Department ramp is in a bad location and is contributing to even more people using the Fourwinds ramp.

**Bob O'Neil**, who has been at the marina for approximately 20 years submitted written comments as well. Mr. O'Neil noted that Jamestown was used as a comparable in the past and expressed his view that Jamestown is much nicer. If he had the choice he would most certainly go to Jamestown and not Fourwinds. Jamestown just knows how to take care of the boaters, he said. He believes the boaters are paying for the hotel. Most of the items listed as improvements are actually maintenance items that Fourwinds was aware of when they purchased the marina. Mr. O'Neil notes that the new gazebo, the pool and the beautification up there is all for the hotel... not the boaters. Parking is "stupid." Fourwinds is charging for boat and trailer storage and using the upper lot that is so convenient for the boaters, to facilitate that additional revenue stream. The bottom lot is the same way. All the storage needs taken to the gravel lot. "We absolutely have no say in what they spend their money for and they claim that it's for us but that doesn't help me one ---- bit that they've got a new gravel lot." The new boat ramp is great for the transient boater but it doesn't help the slip holders. The store is of no use to them. It used to be located on B dock, and had air conditioning, showers, toilets and everything worked and was well supplied. Now the ship store is up the hill off the lake with no air conditioning most of the time, one shower stall and one toilet in the men's room and the women's restroom has been without a shower for three weeks. He noted that recently one of the boaters went up there and fixed the women's shower instead of waiting any longer on Fourwinds to address the problem. The men's public restroom has been out of order since winter. The gates are a pain explaining that a person has to maneuver down the steep ramp, sometimes with a cart, trying not to fall and then you have to "lift the thing up, hold it up with your head, push your card in, then you open it up and pull your cart through." The last person caught stealing came from the water and he has little concern for hotel guests coming to the marina so he considers the gates useless. He expressed his belief that there was no security at the first of the year when a guy went into a boat and stole a girl's purse while the occupants were sleeping. Two individuals ran down the thief and caught him but had to hold him for over an hour until the Sheriff arrived. This is just an example of having to have a major catastrophe before there are improvements.

**Shawn Cantlon**, on J dock, was present the night the individual went into the boat where people were sleeping and stole the purse. He explained that it happened around 3:00 a.m. and police arrived around 5:00 a.m. Repeated calls to the hotel for security were made and they were informed that there had been no security in weeks and there was no security that night. He expressed his concern that these "services are said to be present when they're not." Mr. Cantlon has a cruiser that needs pumped out frequently because of the small tank. Fourwinds planned to have two pump out stations, but what they actually have is only one pump with two hoses that they consider to be two pump out stations. However, the pump is not strong enough to pump out two boats at one time so a few weeks ago they removed one hose to allow only one boat at a time. In doing so Fourwinds merely taped over the end of the extra valve causing the pump to suck air through the extra valve while a person is trying to use the one remaining hose. Environmentally this is unsound and there were supposed to be two pump outs and there is in actuality only one. When Fourwinds rebuilds or repairs the docks they are adding footage thereby increasing the price of the slip and creating several thousand dollars in revenue. J Dock has had no maintenance except what is absolutely necessary to keep it from falling apart. "I wouldn't be opposed to paying more for better service... In fact, I'm not opposed to the marina making money. I would love to see the marina make money...it's good for everybody...However, when you're doing so without providing services and updates to the docks. I cannot support an increase for the docks that have had no improvements." Mr. Cantlon reflect that the hotel benefits no one and sits half empty every weekend but observes that they can't raise rates because it's already overpriced. The

grounds are beautiful at the hotel but that doesn't benefit the boaters. The ramp and the store are not benefits either.

**Tracy Shearer**, on E dock, questioned the length of time an interim rate may be charged indicating that through an interim rate increase her fee raised 29%. She expressed a challenge to the boaters to develop a have representative body with a liaison who can work with Fourwinds to address the boaters' concerns.

**Ed Shearer**, on A dock, indicated that he had lost trust in Fourwinds ability or interest in taking care of matters that need addressed. Consequently, he is opposed to any increase until Fourwinds makes an effort to address the issues that need to be addressed for the benefit of the marina.

### C. Affected Persons' Written Comments

**Michael Crafton**, [Craftonc21@aol.com](mailto:Craftonc21@aol.com), commented as follows by email on June 2, 2007:  
If the rates increase with the price of gas the way it is I will not be using Fourwinds any longer.

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**Sandy Jones**, [mikesandyjones@sbcglobal.net](mailto:mikesandyjones@sbcglobal.net), commented as follows by email on June 4, 2007:  
I will not be able to attend the hearing however I would like to provide some input since I have a boat at Lake Monroe Fourwinds Marina since 1986. I will keep this short as G-dock is supposed to have a representative at the hearing.

Since 1986, we have boated at the Fourwinds and it was only recently we finally received new docks to replace the old white styrofoam docks. And that was the year after the snow storm brought down the docks, December 2004, and caused major damage to a lot of boats. One of those boats was mine in that my insurance company had to pay hundreds of thousands of dollars to repair. During those years since 1986, we had several increases that were not put back into replacing those docks, only patching them. Another charge that has been added to our slip fees is paying for our electricity which has not gone very well. There have been several instances of misreads of the meter numbers and overcharges.

The letter we recently received 5/30/07 from Jeff Hammond states they have not increased our rates since 2003. I do not believe that is correct and our representative will provide the details of the rate increases.

When they put in the new docks as a result of the "dock crash of 2004", the rates went up. Their reasoning for the rates going up is because they are longer slips. This is true but they are not as wide. So square footage wise, it's probably about the same. Along with our slip fee going from approximately \$4900 to \$5750 for the new docks, we are required to pay an additional cost of \$450.00 for patios. So we are paying for the entire square footage of the slip plus the \$450 for the patio.

Our representative will also share exact fees from other marinas in the Midwest including other marinas owned by Fourwinds current owner, Doug Traina. Mr. Hammond's comment about rates being determined by the market, if that is true, he should be lowering our rates. Our perception is that Fourwinds Marina is the highest in the midwest. The rates should not be allowed to sky rocket due to the fact that the Fourwinds Marina has a monopoly on the close location within Indiana.

## AGENDA ITEM #16

Yes there have been alot of improvements, the new docks being one of them but only because the snow storm smashed most of the old docks.

This all comes at a curious time since they are attempting to completely remodel the hotel rooms which is moving at a slow pace.

Our dock fees are very similiar to a Homeowner's Association. I currently belong to one and our fees cannot be raised without votes from the homeowners and that is after we have seen the budget (revenue and expenses) our fees go towards.

Thanks for your time and I do apologize for this going on so lengthy. Consideration to deny the request for a rate increase would be greatly appreciated.

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**Jason Cupp**, Carmel, commented as follows by regular mail on June 4, 2007:

My name is Jason Cupp. I havedocked at 4-winds now for 5 years – B dock. Rates continue to go up and the new rate is unbelievable.

I have no problem raising rates – for those who have gotten new/or fixed docks. B dock is in poor condition – little bumper pads, bird droppings everywhere, and theft.

A dock, C dock have been fixed nicely, raise their rates. When B dock is fixed raise ours.

Increases are for updating. I have seen no updates @ B dock for 5 years, yet I continue to pay increases.

You say, then move to C Dock. I already pay an extreme amount and can't justify the additional money for that dock.

Just venting. – Thanks.

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**Doug & Sandi Kidwell**, [marydougkid@webtv.net](mailto:marydougkid@webtv.net), commented as follows by email on June 5, 2007:

We received a copy of the Notice of Request for Rate Increases for above captioned.

As a person who rents boat space each year, I find it difficult to see where the Marina has spent \$7,000,000 in the past few years - unless it is around the resort area which really doesn't benefit us on the A, B and C dock areas. As a rule, these docks appear rather shabby and have no security in place.

We personally had our boat's gas cans stolen on two different occasions and know that other boats were looted also.

Anyway - the point I wanted to make was that it would appear to me that the Marina should only increase rates on those areas where they have made improvements and not overall which is what they probably will do.

As a retired person my income is somewhat limited but being able to have a pontoon boat and leaving it at Monroe is a great source of pleasure to my wife and me. I really hate to see it priced out of our ability to handle.

Thanks for listening to our thoughts on this subject.

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**Charles & Bev Denney**, [bevdenney@comcast.net](mailto:bevdenney@comcast.net), commented as follows by email on June 6, 2007:

This is regards to the proposed 10% rate increase for slip fees at Four Winds. The letter stated that Four Winds was only granted a 4% rate increase in 2003 for 2004. This not absolutely correct. The Four Winds had been including the electric in the slip rate at no extra charge. This was stated to be a substantial amount. The U.S. Army Corps of engineers did allow the Four winds to pass this cost on to the boat renters of the slips. This was probably a 4 - 6% cost avoidance for the Four Winds. This works out to be an 8 - 10% difference in 2004.

June 8, 2007:

I have a small houseboat on F-26 at the Fourwinds. We do not object to a rate increase as long as it can be justified. We just felt that the last increase was misstated. If the rates charged are in line with other marinas, we can accept any needed increases. We have heard that the rates at Fourwinds are higher than other Marinas, but we do not know this for a fact.

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**Ed Manning**, [manngedw@msn.com](mailto:manngedw@msn.com), commented as follows by email on June 8, 2007:

Just a few comments on Mr Hammond letter to the Fourwind's boaters on prior improvements and a request for boat slip lease increases.

We certainly agree most of the property around the main building has been improved and is landscaped nicely and well maintained.

We enjoy the Fourwind's atmosphere tremendously and I do want to say the staff personnel are friendly, courteous and helpful!

The new docks and walkways are very nice, but the feeling of the boaters I talk with is that it only happened do to the major snow storm damage two years ago. They all assume that damage was covered by insurance.

The weekend parking problem's are not resolved. Every weekend I still have to park on the grass along the park road.

Many times rather then walk a half mile to the docks we leave and go to Caesars.

The solutions Mr Hammond referred to are not well received unless he intends to have a parking valet.

The auxiliary lot across the road from the boaters entrance is filled with junk and old boats and grass two feet high.

If this was cleared and set-up for Fourwind's employee's and overflow boaters cars we would not have to park on the grass or have a long walk.

I'm very surprised at the DNR for letting this unsightly junk yard prevail in a state park.

The lighting on the docks although improved is still a safety concern especially at the security gates where it is so dark at night you have to feel around to find the badge key slot. It's a accident waiting to happen.

**BUT:**

Getting to the chase are the boat slip fee's. They are already higher then comparable slips in Kentucky, Ohio, Michigan just to mention a few in a internet survey.

The general feeling among the boaters is we are paying to subsidize the hotel and restaurant.

## AGENDA ITEM #16

If that is the problem, build a business plan that addresses those business units that does not include subsidies from boat slip leases.

With all the new hotels in Bloomington, and close to scores of good restaurants, the French Lick Casino and Caesars, the Fourwind's hotel/bar restaurant are way outdated compared to the competition.

With all respect the Fourwind's marina is basically a monopoly operation. It has no competition to leverage pricing.

Hopefully the DNR is monitoring this and representing the public.

A DNR boater survey before any meeting on rate increases would be appropriate.

I know one of the two boaters on the new Super Dock and they are not happy!! And nobody likes the idea of boarding from that parking area.

ps: We want to keep boating but if costs like slip fees and gas keep going up, I would rather take the money and spend it on cruises and Vegas.

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**Gregory Samples**, [ruuugs@aol.com](mailto:ruuugs@aol.com), commented as follows by email on June 9, 2007.

As a patron of Four Winds for many years I felt it important for your commission to hear from us. Improvements have been made by the new ownership. Many of the improvements have been made to enhance their earning capabilities. They are making more money than ever. New docks mean more revenue but they also mean increased boating traffic and congestion sometimes leading to danger. Also some of the new docks were constructed after severe snow damage. From which, I am sure they collected insurance monies.

Cosmetic improvements are designed to attract clientele, long time users already enjoy the natural beauty of the lake-not the thatched huts on the beach. They are also inexpensive enhancements to make.

Walkway improvements were needed and have much improved. Parking enhancement is not exactly as indicated. There are more physical spots, I think, yet much of the time they are filled with boats on trailers (which must have been sanctioned by the marina and on which they collect revenue). Boat ramp construction is positive but upon closer examination one can readily see that the old ramp will still be used because the addition of a large new dock makes it more appealing to use than the new one on the other side. I think this improvement will back fire on them.

Finally, if I sat on the commission I would not approve a full 10% increase allowance. I would do 5% as I do feel they have made some improvements for existing clients and costs do rise. A full 10% is not warranted at this time.

If you have any questions please feel to contract me.

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**Bob O'Neil**, [boneil@mallorycontrols.com](mailto:boneil@mallorycontrols.com), commented as follows on July 9, 2007.

The following bullet items are my comments to each of those published in the 5-30-07 letter requesting an increase for up to 10% at the Fourwinds Marina:

- **Pump-Out System**

I consider this as an item that should always be operational for both the Boaters and the Environment. If the raw sewage levels increase we will all be out of business. This is a very

important maintenance item that should be maintained and always operational and should not be pointed out as an improvement. We have raw sewage floating in front of “J” Dock on a regular basis do to the Pump Out being out of order.

- **Floating Ship Store**

The previous Ship Store on D Dock was in a great location for both the Marina and lake boaters needing gas or groceries. It also housed numerous (operational), “Air Conditioned” showers and toilet stalls. All had great water pressure and plenty of warm water. It was a one-stop market for food, supplies restrooms, and gas. The new store is their second attempt to get it right and it is still too far for away for the convenience of most Marina clientele. The new showers usually don’t have any water pressure, the water is cold, and the Air is not working. The public men’s restroom has been closed since the beginning of the season. I guess my visitors will need to use my card for bathroom privileges or go all the way up the hill to the newly remodeled Motel for a free working restroom.

- **Service Department expansion**

If they had just expanded their hours they would have corrected 90% of the problem. If you’re not there when people are boating, you’re not going to be able to service your customers.

- **Shoreline beautification and protection.**

I appreciate the steps they have taken in order to both protect and beautify the shoreline but, once again I feel that this is more of a maintenance issue. The rock helps keep the erosion down and helps in the overall beautification of the Motel and surrounding area. Great for the Motel guest. I’m sure they appreciate the scenery.

- **Pond / Gazebo area.**

Great if you’re staying in the Motel. What value is that for me out on my dock or boat? How did this improve my weekend stay or the Marina?

- **Access paths and bridges.**

They had to do something before someone sued them from falling in! This once again is something that should be expected and not considered as an improvement. This is for everyone’s safety and should be maintained! By the way, they just now finished the lights and there are still several boards that are not screwed down. While we are on this subject, the remaining path/bridge on G dock is also in very bad condition. There are several loose “plastic” boards and trying to walk on this if it’s wet at all is very difficult. The reason for replacing what they did do was to add more “Sea Doo” storage. If that’s not the reason, then why not fix or replace the remaining portion as well? By the way, it’s time to replace (improve), the no-slid pads on the bridge before someone falls and hurts themselves.

- **Electronic card access.**

This is a real pain and I don’t know of anyone down there that feels like this has improved security for us. We bring our carts or at the very least we have our hands full when you get to the gate. It’s always a juggling act in trying to hold the gate open while you’re trying to maneuver your cart through the opening. Who are we really keeping out? The Motel guests that pay 120.00 dollars a night or our friends and family that we invited down for the weekend? The last thief that we caught down there came from the Lake not the Gate! By the way, it took a county Sheriff 1 hour and 5 minutes to get there and arrest the thief that the boaters held at the dock!

- **Dock replacements.**

The real reason they had to replace the docks after the winter of 2004 is that they did not have enough aeration for the ice buildup. They should have responded to the wake up call from the year before when the same docks went under water but, they decided to ignore all the warning signs and do nothing about it.

**All the replaced docks have already had a price increase!** They cleverly bypassed this approval process by making them a few feet longer and / or wider and are now charging more for the same boat that was in the slip before. If you would like to take advantage of this extra room they will also charge you an increase for an added patio and that price is added on every year. This increase alone is well over the 10% that they feel is fair and reasonable.

They haven't made any improvements to our dock. We are repairing water supply lines ourselves every weekend. All of the handrails are loose and weak. The baffle curtains are falling off and the cement baffles that helped to stabilize the dock are gone and at the bottom of the lake. The water entrance at the end of J dock is now very difficult to maneuver do to the new Super Docks. This has always been a very congested area and the addition of the new docks has now made this much worse! This becomes a real mess when everyone tries to get back to their dock during a rainstorm and sooner or later someone is going to get seriously hurt.

- **Boat ramp and Parking.**

“The new Boat Ramp is great”!! It's much easier to back in a larger boat and now that the parking lot has been widened, it's much easier to park your truck and trailer! But, I thought that I was already paying for this privilege with my registration fees and launch pass?

- **Parking improvements.**

Well, I don't know where to start. Every improvement made is due to a problem they created and are responsible for. I guess a new lot would be considered to be an improvement if you can no longer use the older, paved, and more convenient lot due to all the boat trailers they have stored there! The new gravel lot is farther away. All the Marina Boaters have carts to haul down groceries and whatever they may need for the weekend. If this new lot is for us, why is it further away and made of gravel? Ever try to pull a cart through gravel? Why don't they use the new gravel lot to store all their dock junk and boat trailers and open the lot across the Marina for us? It's presently filled with trailers, boats and junk dock parts that they store there. By the way, since we're on the subject, the overflow or top lot is also full of junk and trailers.

They presently have 3 boats parked in the new Super Dock. How many spaces did they save by parking down at the peninsula? If they would just move the trailers out of the parking lot next to the Marina, it would open up 25 more spots, and if they went so far as to clean out the bottom lot, it would open up an additional 75 -100 spots. That's enough for all their employees and some of us to park there on the holiday weekends.

This hasn't improved anything for the Marina Boater. You can still go down there on any given weekend and write as many parking tickets as you want, why, because they didn't build it where it was needed and or convenient for the Marina Boaters!

This is a Joke and I'm not laughing! As a matter of fact I think it's stupid and I can't believe they're actually patting themselves on the back for this mess! They have now gone as far as to write their own parking tickets for cars parked where “they” feel it's not permitted. It's has gotten to the point that you can't even find a parking spot on Thursday night due to all the trailers and boats parked in the main parking lot for the Marina and Motel! To me this is a

great example of how the overall operation is mismanaged. **THEY ARE CLUELESS when it comes to managing the Marina!**

- **Restaurant / Lounge area.**

Great for the Motel guest! I'm a Boater! I bring my food in the cart that I drag across the new gravel lot. "If the food was good and reasonably priced, I really wouldn't care what the surrounding atmosphere was." They do have great pizza and it's reasonably priced and we do order that very frequent. But, I'd be perfectly happy eating that on a nice clean well maintained dock bench or the back of my boat.

- **Pool.**

For the Motel guest! I'm a Boater! Increase the room rates! I swim in the lake when it's clean enough and the pump out is working.

- **Beach.**

For the Motel guest! I'm a Boater! Increase the room rates! I swim off the back of my boat.

- **Landscape improvements.**

For the Motel guest! I'm a Boater! Increase the room rates!

In closing, I recall the last increase and participated in those proceedings. They were not only granted approval for a 4% increase, they were also granted permission to charge for electricity. This in itself is a substantial increase to the bottom line. I appreciate and understand that they are trying to make improvements that we all can take advantage of. My problem is that most of the improvements are either to help the Motel or are poorly planned, miss conceived, and a general disconnect to actually have an effect or improve anything to do with the Marina Boaters.

Most of the items that I have commented on are what I would consider maintenance and upkeep. I also realize that they would like a return on their investment. I know for a fact that most of the improvements that have taken place are due to lack of maintenance and upkeep. I don't feel that I should be held responsible to help out for a return on a bad investment if I don't have a voice in how it's being spent.

Thank you in advance,

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**G & B Warren**, commented by regular mail as follows on July 13, 2007

This is a written comment against any proposed rate increase.

In regard to the five page letter sent to Fourwinds boaters-- MR. HAMMOND, if only it was true!

Traine Enterprises, Inc., Mr. Hammond and Resort could not exist without the annual slip fees from the boaters. The boaters pick up the tab, but get the shaft. All fringe benefits received with fees have been deleted.

Please compare rates of other large marinas.

For instance: A former G dock renter has moved to a marina on Lake Barkley (KY) and has a new cover 50 x 18 slip of concrete and aluminum plus a parking space for \$3,200.00 per year.

The new docks are not of the highest quality. The original docks of concrete and aluminum were better and lasted 30 years. The new docks will not. It is like parking your boat in a shed because the floors are rough crude lumber that warp.

The parking area for the marina is terrible. The north end is used mostly for the resort and to use the peninsula parking would need a shuttle bus to Marina. The parking area used for Traine owners is closed off and looks like a junk yard. And on busy holiday weekends no supervision. Last week end there was help on Friday but not Saturday and it was a mess.

On new floating walk ways there are no railings or ropes. Is that safety first? Docks I & H are not connected to G - A docks. Why not?

Fourwinds is the only marina in our region that bubbles (warm) the water in the winter. It is not fair to have high fees and no other choice of marina.

Traine owners number one focus is only our money not the boater. They provide nothing convenient or cheap. We go to Payetown DNR for one stop cheaper gas and pump out.

This is our first letter ever to complain about rate increase. As, for accounting on how much the resort and private parties make--not make the marina fees pay for all the nice improvements on the hill. Walk under the dock roofs is like entering the ghettos. Is it right for Traine to expect the slip fees to pay for all their improvement plans?

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**Michael S. Miller and Patricia K. Miller** commented by regular mail as follows on July 19, 2007

There are a few things in the letter I received from Fourwinds Marina were left out. I'm very concerned about getting charged an additional 10% fee. First and probably should be looked into 2002. We were charged 4% increase but we were also charged for electric which before was part of our slip fee. There are approximately 1000 boat slips at the marina known. I have a 4% increase plus electric bill annual cost of additional \$700. My boat because of its size stays in year round. In the winter time there are at least 300+ slips with year around boats. The electric charge in 2002 was .0468 per kilowatt hr. now is .78 per kilowatt hour around 45% increase. My home electric in some months less than my boat. In 2002 when 4% increase add being charged for electric saved Marina probably \$700,000.00, check it out.

The \$7,000,000.00 cost for improvement of the docks was mostly from the heavy snowfall, which saved most all of the cover docks with total damage. In reality this \$7,000,000.00 would have been covered by insurance.

About parking and easy access to ramps, most of the people on ABCD&E docks park south parking most of the lots used by Marina to store supplies. A lower lot suppose to be open 2 years ago but still full of junk boats.

A ramp that leads from the south of Marina building down to the D dock ramp was supposed to be built 3 years ago. We still have 2 set of many steps to walk down and get carts down.

As for the claim of 15% inflation in 5 years, in reality it's only been less than 2% per year.

Concerning the pump out, in the past year we can only pump out one boat at a time. If you try to pump out 2 at a time it won't work.

I agree with the management there has been improvements, but some stated that are not quite true. My wife and I agree that a business should make a profit to keep in business. We think because things that need to still be done and short falls we should stay at same rate.

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**Cheryl Moore**, [cmoorehelmet@comcast.net](mailto:cmoorehelmet@comcast.net), commented as follows on July 17, 2007:

**Property Improvement Update Rebuttal**

I appreciate you taking time to evaluate the concerns of the boaters at Fourwinds Marina. The points made by the General Manager are obviously out of balance. It seems that a lot of weight is being placed on how well the boaters are responding to the said improvements. A documented impartial survey of the boaters would be required to validate the statements referenced in the notice we received. Most boaters are outraged at the possibility of a rate increase. However, if you want to enjoy boating on Lake Monroe, our choices are limited. Many people are not available to leave their jobs to attend the upcoming meeting. I would like to request that a survey be conducted, at the expense of the Fourwinds, to validate any comments made by Mr. Hammond in his notice with regards to Boater satisfaction. This survey should be conducted annually, but most importantly, prior to any rate increase being approved.

The said improvements to the dock areas should be looked at as Deferred Maintenance that has now been completed. For many years the dock standards were well below most marinas in nearby areas. Several of the Docks would be considered uninhabitable after the docks collapse. Implying that they could have only been repaired and still housed boats is just simply ridiculous. If these Docks had not been replaced by the insurance company revenue would have been lost. Isn't it the responsibility of the Fourwinds to provide and maintain safe conditions? The Over Priced fees for the slips were collected for many years. Asking for a rate increase to cover the said current improvements is essentially asking us to pay for them twice.

Currently, we pay for a slip of a specific size. Then we pay for patio materials separately when we have it built. The extra cost is billed to us annually. Essentially we are being double billed for the patio portion of our slips.

EZPORTs are \$600 annually. Most neighboring marinas charge \$50 - \$100 annually.

The Fourwinds Marina is a Monopoly. Boats of a specific size have no choice but to lease slips form Fourwinds Marina as there is no other Marina on the lake that can house such boats. Mr. Hammond is constantly voicing that he has to pay the DNR 8% of every dollar collected. This is a very low rate, as compared to normal rent or franchise fees for many businesses. Many other marinas offer services to the boater community that is included in the slip fees. However, Fourwinds charges one of the highest slip fees of Marinas in surrounding states and offers fewer services to us. Basically, due to the monopolistic status of the Fourwinds Marina, if we want to enjoy yacht boating, you must slip at Fourwinds. Understanding that cost have gone up by comparison, slip fees are still overpriced by at least 25% based on services compared to surrounding marinas.

I have detailed below my response to each of the areas pointed out in Mr. Hammond's notice.

**Pump- Out System**

Hardly, SUPERB as stated. Is not adequate for number of slips in marina. Let alone the number of non-slipped boaters that use it. The pump is constantly down or low level of operation. System can not be used by two boats at the same time. Location creates unnecessary access to marina from NON Marina residents. Now that that the Super Dock has been added the channel is often congested and dangerous to navigate for the larger boats.

**Floating Ship Store**

The well staffed fueling depot is overstated at best. Staff does not come out to assist boaters, as the DNR does at Paynetown. Boating rules are not enforced with RENTAL clients, as they are constantly violating IDLE markers and right of way. EZ ports for Jet Ski fueling are seldom available as it is used as Parking for weekend or Day boaters. The boating experience is not enhanced by the store since it does not have a walkway accessible to all docks. The cost to BOAT over to the store is out of the question, with fuel considerations. The inconvenience of going up and down the ramps outweighs the benefit to most boaters. Fuel charges are as much as 50cents per gallon more and the Octane level is lower than the DNR fuel at Paynetown. So many boaters prefer the service and pricing of the DNR operated facility. A survey would provide proof if OUTSTANDING service is truly the perception of the boating community.

**Dock Repairs**

Electrical conduit and other connections are exposed in some areas and have never been addressed, even after being pointed out to the Fourwinds. If these repairs are not kept up with on an annual basis, these newly replaced docks will be in just as bad of shape as they were prior to the collapse. Will we be asked to pay for them again at that time?

**Service Dept**

What does Fourwinds consider aggressive enhancement? Satisfaction with the enhanced services should be documented. Currently, Mr. Hammond's statement is heard. A Survey of every client serviced at completion would likely give some insight that is not being utilized at this point.

**Shoreline Beautification and protection**

If the long term lease states the marina is responsible for shoreline erosion then it should be part of the capital budget for maintenance and should not be considered an extra expense worthy of increasing our fees. Day and Weekend boaters should also be paying for this if they are using Fourwinds facilities such as pump out, restrooms etc.

**Pond/Gazebo**

I didn't know we had one! All of this stuff is for Hotel clients. Boaters rarely use this type of enhancement. We are on the water not the land. Pathways are STILL dark especially when use of carts etc. is necessary. The paver's walkways are not maintained and are uneven creating hazards for those that use them. The pathways are not kept clean of debris, trash spillage or Pet defecation unless a boater takes the time to do this... I would question how exactly have the pathways eliminated pooling water?

**Electronic Card Access**

Hotel guest also have access to the marina area! I had to have my card replaced 3 times this year so far as it has not worked. It takes 2 – 3 weeks to get a card replaced when it should take 2 – 3 days at most. I have also had them put fuel on my slip at the store when I did not have I.D. And no one really checked to see if it was my slip, they just did it. Mr. Hammond states that he is not allowed to put up signage on the docks to control non slip resident's access to slip residents. However, there is a newly erected sign at the Super Dock area. This no trespassing

sign should be visible from the waterways and should be available for all Docks not just the Super Dock.

The security personal makes 1 pass on Friday and Saturday night when docks are busy. However, most theft and vandalism is done at times when no one is around. Since all boats on Lake Monroe have access to the water Fourwinds can not provide security from anyone that accesses the docs from the water unless Cameras were installed and monitored.

**Trapping Efforts**

Again, Part of the normal maintenance if you have a marina in a national forest.

**Dock Replacements**

Please have the Fourwinds provide photos of the Docks prior to the replacement in 2005. How much of the replacement was covered by Insurance? If the insurance would not cover it properly it is probably due to lake of regular maintenance, again, colleted for in fees for decades. Deferred Maintenance is not a reason to raise fees. There should be a capital improvement budget set aside to handle this on a regular basis. If Mr. Traina did not negotiate this when he purchased the Resort then that rest on him, not the boaters that have paid for years prior to the maintenance corrections. Can the Fourwinds provide statements from the Insurance company on this matter prior to accessing the additional fees. It would help determine how much of the said Improvements were offset by insurance fees that had been paid for by slip fees.

**G Dock open slips**

The walkway was replaced because it was dangerous and was probably required when J Dock was moved out for the SUPER DOCK addition. This also required IDLE ZONE markers to be moved etc. This should not be stated as enhancement as only 6 boaters will enjoy the SUPER DOCK and the Super Dock is a Revenue investment for the Fourwinds not the general boating population. EZ Ports are also easily accessible to non marina residents and have NO security.

**Super Dock**

Has created a washing machine effect on currents. DANGEROUS to navigate with traffic of large boats. Since the old Ramp has not been closed to NON slip Residents, traffic access makes it dangerous to maneuver. Then add the Pump out traffic it spells disaster waiting to happen. The Super Dock is an investment in Revenue for the 6 boats that will use it. It brings NO value to the other boaters and most recently has created more negative impact.

**Removal of floating store.**

As fire hazard and construction hazard are part of overall deferred maintenance issue. If this building had been on a business property on land, it would have been required demolition before any other permits would be issued. Again, not a reason to increase fees.

**Boat Ramp constructing and Parking enhancement**

Parking for boating clientele added was not for full time marina boaters. It is for Part time, day and weekend boaters. I have never used the new ramp and never will as it is too shallow for large boats to launch. If it was paid for by Marina as part of lease, again capital improvement requirement should be planned in the capital improvement budget not as a special assessment. Can the Fourwinds increase a USE fee to those that are benefiting? Marina slip residents use the ramp infrequently. The current ramp was ample. If handicap access was required as part of permitting then again, that comes back to capital improvements and budgeting.

**Parking**

Employees, subcontractors, landscapers etc. constantly in parking slots that should be assigned for marina residents.

We need Boater parking stickers and assigned lots. Tow all others. Boats and trailers should not be in vehicle lots. They should be towed. Peninsula parking currently provided for Super dock is access for 6 marina residents. Others that park there are overflow from the new ramp and these are day and weekend boaters that do not pay the Fourwinds for its use. If this was connected by walkway to the other docks then maybe it would be a benefit. The practice used for 4<sup>th</sup> of July should be permanent April 1 – Nov 1. I have not received any improved boating experience. Just notices to move my car when employees or Boats, jet skis and trailers are in space I could be using.

**Restaurant, Pool, Beach, Landscape improvements.**

The restaurant service is not convenient to most boaters. The food service closes early and they very slow at serving. I have not used the service at all this year as it takes too much time away from my boating. The restaurant is mainly for Hotel Guests. A survey of the Marina Boating Residents would be the only fair way to assess the statements Mr. Hammond has made in his letter.

As for the Pool and Beach, I have never used them. This again is for Hotel guests and should not be considered a part of the boating experience without proper unbiased survey being conducted. Landscaping is a part of the Resort attraction and is a normal budgetary expense.

**In summary**, how much of the \$7,000,000 + have actually gone to improvements that the boaters actually utilize versus deferred maintenance expenses that have been collected for in fees paid for decades or required by the Fourwinds to complete prior to expanding the Super Dock Area.

Fourwinds has so many opportunities for revenue that they do not pursue. They Depend and rely on the Boating residents to subsidize the Hotel and resort. The Fourwinds has actually removed the Buoy Field. Marina Residents can not be asked to offset this lost revenue. The Fourwinds should separate the Income and expenses for the Hotel and the Marina separately to accurately see where their costs are that need offset. This should be required prior to any rate increase being granted due Consumer Price index, and operational costs that are stated in the request for increase made by Mr. Hammond. Since the fees at the Fourwinds Marina are considerably above the base for services rendered, fees should be reduced. The fact that the Fourwinds Marina is in effect a Monopolistic entity another Marina should be granted on Lake Monroe to give boaters a choice of services and fees for this lake. This Marina is a huge money maker. I would like to see a comparison of revenues and pre tax profit of other marinas nationwide to see how it ranks in profitability. Yes, they are allowed to make a profit. But the boaters should not burden the responsibility of the Hotel losses. If the Hotel is not profitable on its own, then find ways to increase revenue for the Hotel services or close the hotel and operate only a Marina. The majority of the boaters would not be affected. I am sure a boater survey would concur.

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**Shawn Cantlon**, shawn.cantlon@insightbb.com, commented as follows on July 18, 2007.

Good Evening,

By now I am sure you have had multiple emails expressing concerns about the rate increases proposed on slip rentals at Fourwinds Marina. I too have concerns and here are just a few.

## AGENDA ITEM #16

1. Upgrades the marina states they have made have had little if any benefit to the boaters.
2. Parking upgrades are a joke. The marina service department parks boats in the boater parking and this year has been worse than ever. New parking added is now where near the slips and old parking lots are being used as storage.
3. The improvements to the shoreline and area in front of the hotel like the added gazebo etc. all benefit the hotel, conventions and weddings. Boaters never use them. We use the slips.
4. The ramp upgrades are nice, but it was done to benefit transient boaters. My boat never leaves the water. Most don't in the slips and if they do it is a couple times a year. It was also done to allow them to add the super dock. Again, making more money.
5. Many slips are upgraded. That I can appreciate, but my dock (J) has had no improvements and is in poor shape.
6. Walkways and bridges upgrades were safety issues. The new on connecting J dock is and improvement, but was done for several reasons. One was safety -- many people fell on the old broken one. Secondly, it was added to push J dock out 60 yards or so to add more slips to F dock. Again, to make more money.
7. The shower house did not have hot water until May. April is when you really needed.
8. The mens courtesy restroom was closed/broken until mid May. I start paying for may slip April 1.
9. Water consistantly is out of service on J dock. We often fix the leaks ourseleves. We report leaks about to give out, and they are not fixed.
10. The new store and gas dock are so far from my slip, I cannot see them. The store benefits transient boaters and again is a money maker for the marina. Boaters on the docks bring their food. Gas is usually 10 cents higher than Paynetown and is 87 not 93 octane.
11. The pumpouts they mention were supposed to be 2. It is only one creating lines on the weekends. Repairs sometimes consist of tape over a leak or a sign that says one boat at a time.

I could go on, but you get my point. They want more money for less. They are maxed on what they can charge at the hotel, so they will do it on the backs of the boater.

Please reject the request. Thank you.

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Nancy Dicks, [nancydicks@awesomeoccasion.com](mailto:nancydicks@awesomeoccasion.com), commented as follows on July 19, 2007

We have rented dock space at Fourwinds Marina for four years now. We have enjoyed the experience and hope to continue next year. There have been many improvements to the property as described in appeal for rent increase by management however; we feel that most of these were to benefit hotel guests and wedding parties. Boater parking is still a nightmare. The revenue generated by the boaters is a huge amount of money and we feel that it is being utilized primarily to sustain the aging hotel and the large payroll it takes to run the hotel. Perhaps there are other ways to increase revenue besides raising dock fees like running the boat repair service and boat

sales on a larger scale. The wedding and reception idea seems to have been successful, perhaps reconfiguring the facility to accommodate more than one large wedding a week would generate more income. Maybe it is time for the hotel to no longer function as a hotel.

Nearly 1000 boat and personal watercraft slips rented shows success and much revenue that may need to be spent differently. Most of the dock dwellers we have met are not of Rockefeller means but factory workers, small business owners, police and firefighters with two and three incomes who work hard and play hard. Between the extreme gas prices and the looming property tax increases an additional rate increase in dock fees may keep some of us from renting next season.

Thank you for considering our request not to allow a dock rent increase.

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**Tracy Shearer**, [tracy@vline-corp.com](mailto:tracy@vline-corp.com), commented as follows on July 20, 2007.

As a business person, let me first acknowledge the understanding of for-profit business. As a consumer, excessive increases must be justified. It is the stance of boaters at the Fourwinds Resort for the recent increase, as well as the additional 10%, is not justified for the services rendered.

In respect to the statement of “our last rate increase was four years ago... only given approval for up to a 4% increase” Our contract for a slip has increased 29% in a year and the owner is asking for an additional 10%. Where is this publicly recorded and approved? How does it justify the following? In May of 2004 our contract amount was \$2896.40. In May of 2007 our contract amount was \$3736.50. The advertisement of the slip description has changed, making it seem that the space is larger when in fact, the slips are being measured from centerline to centerline and advertised as such. The docks noted as improvements that have been replaced have been done so as the prior docks were not sufficient for the snow loads and were destroyed during the winter of 2004-2005 causing damage to many boats. Every boater that has been there during this time period is questioning the above.

Comments on the improvements noted by Fourwinds;

Pump Out System – Is this sufficient for 1000 Boats?

Floating Ship Store – Boaters questions the actual income received from boaters versus transient or hotel guests.

H – A Dock – Addressed above

Service Dept. – They do have talented service technicians located on site.

Shoreline/Pond/Access Paths-Bridges – This should be included in the grounds maintenance. It is a well landscaped area, but the advertisement and marketing of the hotel relate to the catering packages offered.

Electronic card access – The security of the boats is severely lacking. There have been multiple break ins, boats damaged, property stolen. Gates are left open, you can go around the panels to get to the walkway, and with an open from the lake to the marina, unsupervised, all a person has to do is launch a boat, pull into the marina entrance either by ship store or J – Super Dock and they have free access to all the boats housed in the marina. It is our understanding an outside company patrols the area on the weekends only. There is no 24 hour monitoring.

The entrance to the marina in this area is extremely dangerous with the amount of boats going in and out and there will be a serious accident. This was modified so Fourwinds could again add more slips for financial gain.

Floating walkways – Beautifully constructed, but required to obtain access to boats. No railings included

## AGENDA ITEM #16

Boat Ramp construction – parking enhancement. – This is a public launch and 90% of boaters do no use as their boats are their yearly. There are some that pull boats during the winter.  
Parking – Extremely short based on locations required to walk to get to the marina.  
Restaurant/Pool/Beach/Landscape – again this benefits the hotel guests. Very few boaters use the facilities.

The bathhouse which is an additional charge for boaters, has 2 stalls each with 2 showers. How is this sufficient for 1000 boat slips that usually average 1-2 people? Even if ½ did not use the facilities as they use their boat, it is extremely under sized.

The boaters pay additional \$300 + for the use of a porch Every year. This should be a one time fee.

The boaters pay additional for the use of a proprietary dock box offered by Fourwinds every year. There should be a standard set and boaters allowed to provide their own.

The boaters pay additional for Bath house which should be an included amenity at the rate of \$75.00 per year.

The boaters pay additional for Elect used.

No discounts or incentives are offered for restaurants, lounge etc.

After a recent visit to a marina in Myrtle Beach SC, intercostal marina, they pulled the boats out, unloaded trash, stored in a covered rack system, security by CCTV in all locations. The cost to store our boat was a \$100.00 less a year. Fourwinds is not comparable with any marinas rates in IN.

There are many good people at the Fourwinds resort, and the company is entitled to a profit, but it is excessive for services rendered and with T.E.I.'s annual revenues now exceeding \$30MM and T.E.I.'s sister companies, Harbor Town Inc. and Victoria Harbour Inc., have combined annual revenues of \$2.4mm we would request a financial statement relating to the Fourwinds Marina.

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**Terri Brown**, [tbrown@intenturetech.com](mailto:tbrown@intenturetech.com), commented as follows on July 20, 2007.

I received the letter from Mr. Hammond regarding the request for an increase in slip fees at FourWinds and would like to address the property improvements that he felt were justifying the increase.

My family has been at Fourwinds for the last 12 years now going from first on “I” dock to now calling home on “D” dock. Interesting, there has been nothing done as far as improvements to D dock for several years now.

We feel most of these “improvements” are for your hotel clientele not the boat owners.

I would like to address each item update

### 1. Pump Out

The pump out, with us being on the pump out dock we did not know there was this high-volume pump out installed if that is the case it has broken down. There was one weekend the waste was pumping into the lake and they had to shut it down and now we are only able to pump one boat at a time out. Plus being on that dock every time someone does pump out we can smell it all along the dock, we have told employees that we feel there must be a leak in the line somewhere.

2. Floating Ship Store

We would like to first ask what was wrong with the Ship Store that was built less than 10 years ago that is NOW a storage facility? Within that building are the public and private bath houses that on more than one occasion either not working or is a disaster, which we have been asked to pay additional for the use of. We now have been at Fourwinds long enough that we do not have to pay finally.

3. H-Dock and A-Dock

These docks we will say are a great improvement but it was apparent that it took several accidents or incidents to get those replaced and with that said what then happened to replacing B, C, and of course J docks they are nasty. It was our understanding that Fourwinds had to replace ALL of the existing (Styrofoam) floating docks BEFORE ANY additional new docks could be constructed. These docks are pathetic and an eye sore to the marina.

4. Service Department expansion

Personally we do not utilize this department due to numerous “complaints” on this department and their lack of competency in finding and fixing problems with boats in the marina. The assessment of this department is more that they have tendencies of breaking more than they are able to fix on a boat.

5. Shoreline beautification

Granted this was a definite problem with erosion to the shoreline.

6. Pond/Gazebo area

This is something for the hotel guest to benefit from not the boat owners. We are on the docks with our boats and on the lake not roaming that area, plus we can not benefit from that from our dock at all. This is a hotel improvement not the marina. We can not even get our weeds cut down at our end of the marina and we have lights out on our walkway and with that it makes it dark and buggy not appealing at all. We can not even get someone to clear the webs from our walkway and the map area is nasty.

7. Access paths and bridges

Being a boat owner on “D” dock we STILL have stairs to climb up and down and try to maneuver carts and the walkway is uneven and dark at night. All improvements here are at the hotel end of the property. We can’t even get any flowers or get someone to even put the fencing back together and the weeds are so tall along the fence area. Last weekend for some reason boaters were leaving their bags of garbage by the gate on “D” dock and I called the hotel since it was Sunday and spoke to the MOD and was told “This is the hotel we have nothing to do with the docks”. I told this person he needed to find someone to get this garbage off the dock or we would have raccoons on the dock and would be tearing up our boats. Finally about an hour later someone came and picked it up. Right there tells me, the hotel feels they are not responsible for what goes on at the dock areas but we are being asked to help fund improvements for the hotel! I don’t get it.

8. Electronic card access

This started out to be a great improvement, however until yesterday our gate latch had been broken for at least 2 weeks that meaning anyone could come and go on the docks at will. This is another issue NO SECURITY and numerous boats have been vandalized ours being one in the last 12 years that we have been at Fourwinds. We remember the day when there were actually security people that walked the docks on a regular schedule and they could easily be

identified by their dress. Now when something happens we are directed to the Manager On Duty or most recently the weekend security. We don't need security on the weekends as much the boat owners are the security we need security during the week down in the docks when no one is using their boats.

9. Trapping efforts

This is a huge problem, however if the garbage was removed from the dumpsters daily then maybe the animals would not have as much reason to wreaked havoc on the docks. Remove the garbage mess!!

10. Dock replacements

This should have been the number one priority for this marina. When you still have Styrofoam docks in the marina and have chosen to build NEW docks (more revenue) rather than replacing the old ones and making them safer to walk on. You have chosen to build the Super Dock.

11. Floating walkways

These walkways are a tremendous improvement, however they are dark and there is no railing anywhere, and someone could just walk right off the end or edge of them. Very unsafe looking.

12. The removal of the floating store was a tremendous improvement however you have the power box out in full exposure and we have had the power turned OFF due to there being no security lock on the handle. VERY unsafe for everyone concerned!

13. Boat ramp construction – parking enhancement

Apparently everyone has not gotten the information to not use the old ramp still. We still see the same amount of boat traffic in and out just like before the new one was built. We do not use this ramp our boat stays in the water year round.

14. Parking improvement

It is now June and there are still boats sitting in parking slips these should have been moved a month ago. The undertaking of having employees parking else where and being shuttled into work should be a regular daily practice ALL summer long. We boat all summer long not just on the July 4<sup>th</sup>. The parking issue is an every weekend issue not just one holiday. You are basically stating the employees of Fourwinds are occupying 75-100 parking spaces every day during the summer weekends.

15. Restaurant/Lounge area

No matter what improvements you make to this property area it will still never change the fact that you are not able to service the clientele. We have been there numerous times in the lounge and have had the worst service of any restaurant in the area. Numerous times we have had to walk up to the bar and get something either to drink or eat due to no one acknowledging your presence. This is very poor customer service, plus the prices are high. We have been there and ordered a frozen drink and sitting at the bar when the bartender had a small amount left in the blender and was about to pour the leftover down the sink, I suggested giving me the rest and his reply was "No you didn't pay for it" He had rather throw it away than to give the customer the remaining bit a little extra for the \$6 that was spent on the drink. Needless to say that customer is not going back. Numerous times you have functions, Mothers Day Brunch and such and you have run out of food and are not able to serve your customers. New Years eve, you were going to close the bar at 9:00pm and were finally convinced to stay open until 12.

16. Pool

The pool is nice for the most part, the hot tub is never clean or treated and it smells.

17. Beach

The beach is for your OTHER clientele not for the boaters/marina slip owners.

18. Landscape improvements

There was one thing not address regarding the increase, there failed to be mentioned that we are now paying for electricity that the marina is not paying for. So we have had an increase to our slips!

These improvements have only been made on the hotel side not down on the south end where we still have stairs to climb. The grass/weeds only get cut down right before holidays, Memorial Day, July 4<sup>th</sup>, Labor Day. We have never had any flowers or beautifications of any nature at the south end of the marina.

After writing about each of your bullet points we feel your need for a rate increase is directed at the wrong clientele, the increase should be placed on those that actually are able to view and benefit from these improvements. We are on a dock with broken up uneven cement walkway sections that could collapse at any given moment.

We feel that there is an apparent confusion on who should be paying for these upgrades to the property. The marina is a separate entity from the hotel and most of the beautifications have been placed. I truly feel sorry for those folks on J, A, B, C and D they have the worst docks in the marina and to ask them to pay more is sad.

The point made by Mr. Hammond that there has not been an increase since for several years. When the docks were replaced after the snow damage they increased all of those fees due to making them larger than before by \$1000 or more, so how can they say there has been no increase?

**Jan Warren**, commented as follows on July 25, 2007, and had submitted 27 photographs on July 17, 2007 relating to her later received written comments.

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P. 01

NATURAL RESOURCES COMMISSION  
DIVISION OF HEARINGS

JUL 25 2007

FILED

Sandra Jensen, Hearing Officer, Natural Resources commission

July 15, 2007

After several meetings with fellow boaters on a couple of the docks, I am enclosing some of our concerns with proposed rate increase at Fourwinds. Several of us will be in attendance at the hearing on Friday July 20. Fourwinds is usually compared to Jamestown Marina in Kentucky. Jamestown is a world class marina which covers 300 acres. It has all-suite lodge hotel and chalet condos and some cabins. The Lake covers 65,530 acres. They provide free wireless internet and cable TV. They have a waterfront café. They provide a private restroom, shower, and laundry. Flagship (the parent company) has several premier destinations like the 4 seasons and the Beverly Hills hotel. Comparing Fourwinds to Jamestown is like comparing a 4 Seasons to a Motel 6. Jamestown offers many amenities that Fourwinds doesn't.

Fourwinds has replaced most of the old walkways with a new wider walkway. We previously had handrails and now there are no handrails on the walkways. They did add lighting; 2 weeks ago we counted 8 lights out that had been out for 4 weeks minimum. There were 14 lights out on the wood walkway that goes through the woods. The walkway by the hotel had 11 lights out that had been out since before the Memorial Day holiday. The lighting helps, but it is of little value when it doesn't work. There is a light on the front side of the bathhouse that hasn't worked in 2 or 3 years. Below that light is a "flowerbed" where there is no concrete. A couple of people have stepped into that area in the dark and twisted ankles. There is a light between the men's and women's bathhouse that hasn't worked for the last 2 seasons. It is very dark in that area and there is thick vegetation next to the side walk....not exactly a safe situation.

The new ramps are easier than steps, but are extremely steep. The anti-skid tape has needed to be replaced for a long time. After sliding several times and almost ending up in the water, I asked last August if they could replace the tape. They said "no problem", if we don't have it we can have it in a couple of days. After a few people fell on the ramp, I asked again a few weeks ago. I was told that they have the tape, but just have to find the time to do it. The ramps are steep and slick. Someone will end up in the water with a cart, or a baby stroller.

The grocery store was formerly on the water in the middle of the docks (centrally located). The store provided meat, cheese, vegetables and a wide variety of other groceries. The store was then moved to the bathhouse building with less items for sale. Then it was moved to the marina showroom with little to purchase. The new store is located near the hotel for the boat rental people and the "day boaters". It is far away from most of the slips. The new store has soda, beer, chips, snacks, and ice. We no longer have a grocery store. They carry items for the rental boats and "day boaters".

C, B, and ½ of A dock are still the foam flotation with the docks in disrepair. Those boaters do not feel like they should have any increase at all. The half of A dock that was replaced, was replaced with longer but still narrow docks to generate more revenue.

There are still steps to navigate on the end of the marina where A,B,C,D and E docks are located. Previously there was a concrete ramp leading to the walkway. The end of the ramp washed out several

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P. 02

years ago. It was never repaired. If we use the North walkway, we have to fight with the hotel guests and the other boaters for parking that is far away from our boats. The new parking lot that was built is convenient for the hotel guests, the boat rental and I and K docks. The marina did take over the upper lot and is being used for dock construction and storage of boats and trailers. This is the closest parking for the boaters on A,B,C,D and E docks. F dock is in the center of all the parking. The lower lot is being used for trailer storage, boat storage and storage of junk. The back half of the lot is fenced off for Fourwinds to store trailers. The pictures that will be mailed with the hard copy of this letter show the parking lots and their use. For Mr. Hammond to tout the increased parking, the net effect is less parking. Parking continues to be a major problem. On weekends, cars park wherever they can squeeze in. Fourwinds tickets cars for parking in "unapproved" areas. You will see in the pictures that boaters park wherever they can squeeze in. The parking on the peninsula helps the 6 slips that are located on the peninsula. The new ramp has helped, but the old ramp is still open so it has just doubled the amount of boats that can be launched at any given time. The people using the old ramp are still parking in the upper lot. At the last hearing Fourwinds stated that it was going to make the lower "boat graveyard" into 50 additional spaces. They cleared out that lot and have proceeded to fill it back up with junk boats. That lot would have provided additional close parking for the boaters on that end. The closest spots by the Marina are filled with boats for sale. These are prime parking spots. The employees have been shuttled on the Fourth of July for several years. That partly came about because when they came to work, there were was no place for them to park. The lots fill up a day or 2 before the holiday. That doesn't really free up any more spaces....those spaces are already full by the time the holiday gets there.

We continue to have 1 public restroom for men and 1 for women. The sign says that the restrooms are cleaned 2 times daily. They are cleaned only 1 time per day and sometimes they go uncleaned for 2 or 3 days in a row. We are enclosing a copy of the restroom cleaning log as an example. Fourwinds makes lots of claims but fails to follow through on many of them. The sheet says to call the desk if service is needed. When you call them, they act like "why are you calling us".

The new high speed pumpout is an improvement. A few weeks ago, the pumpout quit working, and was dumping raw sewage into the lake. Was Fourwinds fined for that?

Security (or the lack of) continues to be a major discussion. At the last hearing, Mr. Hammond said that we have security 24/7 and that the time is split 70% on docks and 30% at hotel. We have not seen this. More than 20 boats were broken into on E dock early in the boating season. The only time frame Fourwinds could come up with was between 6 pm and 6 am. Where was our security? Fourwinds has recently hired security people to work Friday, Saturday, and Sunday. Those are the days when the most boaters are around to watch the boats. The dock crew walks the docks during the day. If there is an emergency, who will respond? Many years ago, we did have security around the clock. All you had to do was call on channel 9 and a guard responded. There are millions of dollars worth of boats in the marina and we are paying for security that we don't have. The gates have slowed people down, but we watch people climb around the gates on a weekly basis. Security used to monitor for people "pirating" slips. The current security said there is nothing they can do. This is lost revenue for the marina and we are paying for slips while others "steal" a slip.

The service department has been expanded. Yamaha is primarily for the PWC's that are rented or sold by the marina. Service is something we pay for by the job and shouldn't affect the price of the slips. They charge for this service. The parts department seldom has the parts we need. They have a travel lift that will not pull the bigger boats out of the water. Fourwinds is also doing bottom paint in their lot. The toxic bottom paint is on the concrete and on the sidewalks. It then gets carried by the rain into the lake. This waste is toxic and shouldn't be on the grass and concrete and in the water.

The new beach (right next to the State Beach) is nice but not a part of the boating experience. It is great for the hotel guests. The Canadian geese are really enjoying it and leaving their presents behind. The beach is covered with geese droppings. How did Fourwinds get approval for the beach? No one else on the lake can add a beach? Was this a DNR or Corpe issue? In light of the drowning at the beach at Paynetown, why did the lake need another unguarded beach? The waterfall seems to be in violation. Anyone in the watershed area is not allowed to take water from the lake or discharge water into the lake. The waterfall takes water from the lake and then runs the water from the area into the lake. Who approved this and how did Fourwinds get it approved. Other homeowners on the lake are not allowed to do any of this. These 2 things were a huge expensive and little benefit to boaters

The landscaping is nice, but most of that is for the hotel. The hotel looks nice, but the marina office and walkways continue to have limited landscaping and weeds. Several pictures will follow. The landscaping is enjoyed by the boaters on K and I docks.

The foam under the docks was required by the Corpe to be replaced. This was mandated several years ago. The foam is still under A,B and C docks. The dock that totally collapsed during the snow, had 2 broken trusses from a previous storm and didn't stand a chance of surviving. It was the only dock that totally failed. The other docks were held up by the boats, and came back up after the snow was removed. Our boat insurance had to cover our losses and claims. Yes, the docks have been replaced, but that was required by the Corpe. The new owner should have been informed that the docks had to be replaced.

At the last rate review, E dock was \$2575 and \$2785. Fourwinds was given a 4% increase at that time. When the new slips were built, E dock slip rates went to \$3736.50. They have already gotten a huge increase (the dollar amount per foot has increased). We also paid to have a patio built, and when they took the docks out they took our patios with it. They now rent us a patio per year. That is another type of increase. With a 4 foot patio, we rent that space, but then pay for it again. A 30 foot slip then becomes a 26 foot slip. The new style dock didn't give us anything more....we still rent a space in the water. The dock area is not ours. On E dock a slip is currently more than the 32 foot slip was with the last rate increase. They have already had an increase. Gary Miller stated that Fourwinds was given a temporary approval for the new style docks. How did this not go through the State approval process? We counted on E dock and 50 of the boats didn't need a 30 foot slip; they were fine with the old size slips. They did make the slips longer, but many of the bigger slips weren't made wide enough to accommodate the larger boats. Fourwinds makes a big deal about the fact that they didn't have an increase for many years. In the minutes from the last public hearing, the state had forbidden Fourwinds

from asking for any rate increase until significant improvements were made. Fourwinds fails to mention this to the boaters.

The new super dock has their own patio included with their slips. We all pay to rent our patios. The new dock has created a hazard. It probably is an ok width for a channel opening, but there is traffic coming from many directions and trying to make turns. It is an accident waiting to happen. Traffic is not lined up before it goes through the narrow. It is coming from both sides of J dock, and open water, the super dock, the launching ramp, and from the dock area. The large boats need room to navigate the turn. It is only a matter of time before something happens. They are talking about adding even more slips to that dock.

We will send this by US mail with the pictures included. Many boaters will be attending the hearing on Friday. Some are unable to attend because of business.

Thank you for your attention. This is from a group of concerned boaters, sent by Jan Warren.

Jan Warren, F dock boater

#### **4. RECOMMENDATION BY THE DNR DIVISION OF PARKS AND RESERVOIRS**

As anticipated in the nonrule policy document, the Division of State Parks and Reservoirs has completed a comparative review of slip rates for Fourwinds. Gary Miller, Assistant Director of Inns and Concessions, prepared a summary of the review found below:

Marina Rate Increase Request  
For 2008  
Fourwinds Resort and Marina

The Department of Natural Resources through the Division of State Parks and Reservoirs has conducted a rate comparison for the Fourwinds Resort and Marina as directed by the Natural Resources Commission's Bulletin #20. The purpose of this comparison is to compare rates charged by other marinas to determine if the rate increase is justified.

A number of marinas were looked at which represent a general cross section of marinas. I should also be noted that the Division of State Parks and Reservoirs previously had reported through comparison that the Fourwinds Resort and Marina was charging rates most comparable to coastal marinas, and that at that time was one of the highest as compared to inland marinas.

The comparison at this point shows that over the last decade, marina rates have increased both at coastal and inland marinas significantly. At the same time, the Department has denied rate increases, or approved rate increases at a lower rate than requested for the Fourwinds Resort and Marina. At this point in time, the Fourwinds Resort and Marina has rates more comparable with other inland marinas, and lower than coastal marinas.

During the last few years, the Fourwinds Resort and Marina has made major improvements to the facility. Other improvements need to be made; however, the Department has seen upgrades in the entire facility that was not attempted during the previous ownership.

During the early summer of 2007, the Department of Natural Resources and representatives from the Louisville office of the Corps of Engineers made an un-announced site visit to all of the marinas on Monroe Lake, including the Fourwinds Resort and Marina. Some of the staff from the Corps had also been present during previous site visits. The staff from the Corp was impressed with the improvements made.

Although significant improvements have been made, there are some areas that still need to be addressed relating to improved dockage at the facility, mainly the replacement of the portions of A, B and C docks. It can be noted that a portion of A dock has been replaced, and that the plans of the operator is to replace the other portions of A, B and C will be replaced when the docks are realigned to the peninsula parking lot.

After reviewing the comparables and taking all information into account, it is the recommendation of the Division of State Parks and Reservoirs that the Fourwinds Resort and Marina be granted an increase, but not to the full extent of the petition. Rather, that increases to the portions of A, B and C docks that have not been replaced be held at a maximum of 3%. It is also recommended that the other portions of the marina be granted an 8% increase.

NOTE: The comparatives considered by the Division of State Parks and Reservoirs is attached as "Exhibit A."

**5. FINDINGS AND PROPOSAL BY THE NRC DIVISION OF HEARINGS**

**A. Findings**

1. The scope of the informal administrative review accorded by the Commission in Information Bulletin #20 is addressed to petitions for rate increase at marinas and related facilities on properties owned or leased by the Department.
2. Although the Department may appropriately exercise whatever rights are provided in a ground lease with respect to marina facilities, as well as any other rights provided by law or equity, the scope of review provided in Information Bulletin #20 (First Amendment) is limited to the subject of the petition for rate increase. Indeed, the Commission ultimately recommends action on the petition to the U. S. Army Corps of Engineers, and the Corps may either accept or reject the recommendation.
3. In determining whether to recommend that a rate increase be granted, the Department is to analyze similar facilities and compare rates with those sought by the petition. Implicit to the public hearing is that interested persons may also seek and analyze comparables.
4. The public comments received during the consideration of Fourwinds' petition reveal a certain degree of tension between patrons and the marina management, which has resulted in objections to the sought rate increase. Without doubt, Fourwinds has accomplished many improvements to the marina and resort property since its 2001 purchase. The dispute between the slip holders and the marina management generally focuses on the perception of the marina patrons that the vast majority of physical improvements and support services as well as intangible assets, such as the good will of the management, benefit the hotel and its guests but not the marina or the slip holders.
5. Three predominant issues; security, parking and marina maintenance; appear to lie at the center of the tension.
6. Fourwinds concedes that parking is not optimal but offered no opposition to the slip holders' contention that Fourwinds profits from its use of a significant portion of the parking lots for the storage of boats and trailers. Photographs provided by the slip holders confirm that a significant number of parking lot spaces are filled with stored trailers and boats while weekend parking appears to overflow into grass areas around the marina. With respect to maintenance, the slip holders best demonstrated this concern by the fact that non-slip strips, known to be in need of replacement since the 2006 boating season, had not been installed by July 2007. Fourwinds also offered no response with respect to this concern.
7. Pertaining to the security issue, the slip holders provided multiple examples of security not being on site when called and of events that occurred over extended periods of time that, in their opinion, would not have been possible if security officers had been visible in the marina. In response, Fourwinds maintains that it has retained security services that, by contract, are dedicated 95% to the marina and requested that the slip holders monitor the security situation and advise the management if appropriate security is not visible.
8. Mr. Hammond explained that while the slip holders may not view the to-date improvements as a benefit to them, he expressed his perception that each of the improvements is but a "small piece of a larger puzzle" intended to improve Fourwinds overall. However, those who commented in opposition to the rate increase appear uninformed about Fourwinds' long-term plans. The hearing officer observes that communication between marina patrons and Fourwinds management may be lacking but wishes to also note that all individuals involved appear to be reasonable in their opinions and perspectives and she attributes the communication failures to no particular person or group of persons. Quite possibly the formation of a marina committee designed to liaise with

Fourwinds management, as suggested by one commenter, would be the best method of overcoming, or decreasing, the obvious animosity that presently exists.

9. All in all, there is no doubt that many of the improvements cited by Fourwinds involve efforts readily identifiable with the hotel, but they are amenities available to marina patrons as well. One individual commented that the improvements are nice for weddings and other hotel events but observed that these amenities are of no use to the boaters. However, the gazebo and water pond area available to the marina patrons for their weddings or their children's weddings, the same as these areas are available to hotel guests. Whether the marina slip holders make use of any particular amenity, such as the beach, the pool, the gazebo area, the expanded restaurant and lounge, except those located directly at the marina is their choice. With respect to the actual marina area, there have also been vast improvements made there as well, with the replacement and renovation of docks and security gated dock access. With that in mind, it is also noted that continuing improvement at the marina, particularly with respect addressing problems with maintenance, security, malfunctions with the security gates and the renovation of A, B & C Docks, remains necessary.

10. With respect to marina rates, the use and analysis of comparables is the fundamental consideration in determining the propriety of proposed rate increases to marina slips.

11. In the past, Fourwinds' rates were more comparable to coastal marinas, but due to rate increases associated with inland marinas over the past few years, Fourwinds' proposed rates, while continuing to be somewhat higher than other inland marinas, are more comparable. However, the Department notes that it has denied requests for increases that would result in fees lower than those proposed by Fourwinds.

12. It is recommended that Fourwinds' requested rate increase of 10% across the board, to be implemented at the discretion of Fourwinds, be rejected.

13. The Department suggests that Fourwinds' rate increase should be 3% for A, B & C Docks, which remain in need of replacement, and 8% for the remainder of the marina.

14. Further review of the Department's comparables reveals that in many instances Fourwinds' 2007 rates are already higher than rates charged by other inland marinas for slips of the same or similar size. For instance Fourwinds presently charges \$4,483.80 for a yearly thirty-six foot covered slip, whereas three other marinas charge only \$3,100.00, \$3,650.00 and \$3,465.00 for a comparable slip. While there are some isolated instances in which Fourwinds' existing rates are less than the rates charged by other marina's identified by the Department, that result is not consistent across all identified marinas with comparably sized slips.

15. This consideration dissuades the hearing officer from recommending approval of the Department's suggested 8% rate increase for any portion of Fourwinds. However, the preponderance of the information in the record discloses that Fourwinds should be granted some rate increase in recognition of the improvements made to date and to encourage continued facility improvement.

16. As a means of allowing Fourwinds to be compensated, to some degree, for cost of living increases, it is recommended that Department's suggested 3% increase for slips located on Fourwinds' A, B & C Docks, be approved.

17. With respect to all remaining slips within Fourwinds' marina facility it is recommended that Fourwinds be granted a rate increase of 5%. It is anticipated that this rather modest increase will offset increases in the cost of doing business while continuing to bring Fourwinds' rates in line with rates charged by comparable facilities.

**B. Proposal**

It is the recommendation of the hearing officer that Fourwinds petition for rate increase be approved as follows:

3% for slips located on Docks A, B & C.

5% for slips located on the remainder of Fourwinds marina facility.

Dated: August 24, 2007

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Sandra L. Jensen  
Hearing Officer

**Service List:**

cc: Gary Miller, DNR, Division of State Parks and Reservoirs  
Jeffrey G. Hammond, Fourwinds Resort & Marina